



Sex workers and their allies protest against the criminalisation of street based sex workers, 15 February 2014, Madrid. Photo credit: Johannes Mahn

# SPAIN

*Chus Álvarez*

Legally speaking, prostitution<sup>1</sup> remains a grey area in Spain: while the buying and selling of sex are not criminal offences, municipalities are free to create their own regulations, which are then used to target street-based sex workers under the guise of public safety. So far sex workers have not seen any progress in the recognition of their rights, although many agree that it is better not to have any regulation than having regulations that affect them negatively.

While there is a national alliance of sex workers rights organisations, most of the advocacy work and the services provided to sex workers are focused locally and done by organisations such as Hetaira in Madrid and Genera in Barcelona. Both of them were part of this research, along with the Feminist Group of Sex Workers (AFEMTRAS), and Sex Professionals Association (APROSEX), which are two self-organised groups of sex workers in Madrid and Barcelona respectively.

Most of the sex workers participating in this research are engaged with self-organising at different levels. Their voices show clearly how self-organising has empowered sex workers, allowing them to improve their working conditions, to face abuses and to advocate for their rights.

The anti-trafficking discourse in Spain is beset by an ideological divide over prostitution, in which different concepts are used interchangeably. Prostitution is conflated with sexual exploitation and human trafficking creating stereotypes that directly affect sex workers. As a result, sex workers and their organisations are stigmatised, misrepresented and, in many cases, criminalised. At the same time, this conflation means that anti-trafficking work is focused specifically on trafficking for the purpose of sexual exploitation, at the expense of assisting people trafficked in other labour sectors.

The human trafficking discourse is used to target the sex industry and, therefore, sex workers and the organisations that work with them. Sex workers rights groups have seen how the anti-trafficking framework has not helped to identify the ways in which sex workers experience exploitation, or to fight abuses in the industry. On the contrary, it has served as a tool for stigmatisation and harassment against them.

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<sup>1</sup> The terms sex work and prostitution have been used interchangeably in this chapter because this is how Hetaira - the partner organisation in the research - uses it. Hetaira uses a variety of terms when talking about sex work and they do so for two reasons: 1) not all the women working in prostitution call themselves sex workers; and 2) they try to lift the stigma on the traditional terms by using them more often.

Hetaira's stance on sex workers' rights is costing them dearly: the organisation has been refused membership in the Spanish anti-trafficking network twice; it has been subjected to insults; and finds it increasingly difficult to access funds and public spaces to keep defending sex workers' rights. Nevertheless the organisation is strong, maintains a discourse based on evidence, and is creating alliances with movements and organisations in defence of human rights for each and every person working as a prostitute.

This research reinforces the need for society to listen to sex workers in order to find new approaches when talking about and dealing with prostitution, and how protecting and respecting sex workers' human rights must be at the core of these approaches.

## INTRODUCTION

### Socio-economic and Political Context

Spain is a shared peninsula with Portugal, located at the crossroads between Europe and Africa. Its geographic location—just 14km by sea from North Africa—and the fact that it has two enclaves on the North African Coast, Ceuta and Melilla, have made Spain one of the southern gateways for migration from Africa to Europe.

Spain is classified as a high income country,<sup>2</sup> and is placed very high in human and gender development rankings<sup>3</sup> in terms of living standards, gross income per capita, life expectancy, education, and gender equality. However, there is also considerable income inequality, with the twenty richest Spanish people having the same wealth as the poorest 20%.<sup>4</sup> This inequality is particularly evident among migrants: the poverty rate among them reaches 31% — 12 percentage points higher than that among Spanish-born population.

Spanish modern history is marked by the Civil War of 1936-39, and the subsequent 36-year dictatorship, which has still not been officially condemned in the country. After dictator Franco's death in 1975, Spain made the transition to a democratic state. This process has largely been admired as an exemplary one for looking forward and burying the past. However, it should be noted that most of the political cadres that supported the dictatorship remained within government institutions, such as ministries, police forces and Supreme Court.<sup>5</sup> Thus the country inherited several elements of the previous regime: ideological conservatism, a strong influence of the Catholic Church on the government, corruption, and impunity for those in power.

Nevertheless, Spain has made some progressive social reforms: divorce was legalised in 1981, and marriage between same-sex couples in 2005. In a country with an exaggerated sense of *machismo*, women's position in society has advanced considerably, rating the country in 2016 with a Gender Inequality Index of 0.081.<sup>6</sup>

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<sup>2</sup> High income countries, as per The World Bank, are those with a national income per capita equal to or greater than USD 12,476.

<sup>3</sup> See: UNDP, *Human Development Report 2016*, UNDP, 2016, pp. 198, 210 and 214, available at [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf).

<sup>4</sup> Intermon Oxfam, *Gobernar para las élites; secuestro democrático y desigualdad económica. Reflexiones sobre España*, 2014, p.2, retrieved June 2017, <http://www.pensamientocritico.org/OxfamII0214.pdf>.

<sup>5</sup> D Barcala, 'Los altos cargos del franquismo que acabaron mandando también en democracia', *El diario*, 2015, retrieved June 2017, <http://desmemoria.eldiario.es/cargos-en-democracia/>.

<sup>6</sup> This index is a composite measure which captures the loss of achievement within a country due to gender inequality. It uses three dimensions: reproductive health, empowerment, and labour market participation. The values of GII range between 0 and 1, with 0 being 0% inequality, indicating women fare equally in comparison to men, and 1 being 100% inequality, indicating women fare poorly in comparison to men.

Spain joined the European Union in 1986, and was a founding member of the Eurozone in 1999, which enabled it to integrate into the international community after a long period of relative isolation. EU membership has helped the country to open its economy, modernise its industrial base and revise economic legislation to open its previously protected markets to foreign competition. Until 2009, the Spanish economy was one of the most dynamic in the EU, and its growth inverted the traditional emigration pattern of the country, becoming, within a few decades, one of the countries with the highest net immigration globally: from less than 500,000 immigrants in 1995, to around 6 million today, or 14% of the population.

In January 2009, the bursting of the housing bubble threw Spain into a severe recession for the first time since 1993. The rise in unemployment that began with this crisis, continued until it reached its peak in April 2013 with an unemployment rate of 27.2% among the Spanish-born population, and more than 35% among migrants. By the fourth quarter of 2016 the unemployment rate had recovered somewhat to 18.6%, but was still the second highest in the EU after Greece.

Spain used to have a universal healthcare system in which every person registered in the municipal census, regardless of nationality and migration status, had access to public health benefits. However, in 2012 the Ministry of Health amended the law, restricting access to services for both nationals and foreigners.<sup>7</sup> Three years later, after acknowledging the detrimental effects of the approved policy, the government reversed the amendments. However, today migrants continue to be excluded from universal healthcare: either because of the prevailing chaos and disinformation since the change, or because they cannot meet the administrative requirements for accessing a health card.<sup>8</sup>

A report by one of the main trade unions in Spain, UGT, shows how labour reforms and cuts have especially affected women, resulting in more temporary, part-time, and insecure employment. In addition, the absence of equality policies continues to hinder women's access to leadership positions. Thus Spain's supposed economic growth and rising employment rates are not affecting women and men equally.<sup>9</sup> Nevertheless, the crisis has had the effect of prompting immigrant women who were previously inactive in the paid labour market to seek employment, which has reduced the employment gap between migrant women and men.<sup>10</sup>

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<sup>7</sup> Royal Decree 1192/2012 of 3 August, which regulates the status of insured and beneficiary for healthcare purposes in Spain through the National Health System, available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2012-10477>.

<sup>8</sup> Médicos del Mundo, *Dos años de reforma sanitaria: más vidas humanas en riesgo*, MDM, 2014, retrieved June 2017 <https://www.medicosdelmundo.org/actualidad-y-publicaciones/noticias/dos-anos-de-reforma-sanitaria-miles-de-vidas-en-juego>.

<sup>9</sup> Unión General de Trabajadores, *En pie de igualdad*, UGT, 2016, retrieved June 2017, <https://www.scribd.com/document/302667179/Informe-8-Marzo-2016-Ugt>.

<sup>10</sup> Colectivo Ioé for IOM, *Impactos de la crisis sobre la población inmigrante*, 2012, p.6, retrieved June 2017, <https://www.colectivoioe.org/uploads/0bae582aa3b0842a9eaf50cde16f4f97d9527bcb.pdf>.

In Spain, most women are employed in only a few economic sectors. In 2016, more than half of women workers (52%) were grouped in four of the twenty-one categories distinguished by the National Institute of Statistics: retail (18%), health and social services (13.8%), education (10.2%), and hospitality (10%). Women make up more than 70% of staff in the cleaning and housekeeping services (90.4%), health and social services (80.2%), and education (71.3%), all of which generally pay lower salaries. This phenomenon, known as occupational segregation, culminates at the very top, where amongst CEOs only 9% are women,<sup>11</sup> and contributes to the gender wage gap, placing Spain in the 29<sup>th</sup> position among 144 countries.<sup>12</sup> However, these differences are fuelled by other fundamental reasons: the unemployment rate for women is 20.5%—more than three points above that of men<sup>13</sup>—and 24.8% of the working women have part-time jobs, compared with 7.9% of working men.<sup>14</sup>

### Sex Work in Context

*Prostitution is frowned upon because it offers sexual and economic independence to women.*

#### ***Ninfa, sex worker***

Prostitution is generally tolerated in Spain, but at the same time evokes reactions ranging from feelings of pity to disdain for those engaged in it.

At present, there is almost no statistical information about sex work and it remains a poorly quantified sector in Spain. Sex worker rights organisations claim that the bulk of it occurs in brothels and apartments. Street-based sex work occurs mainly in large cities such as Madrid and Barcelona or in regional capitals such as Seville, Valencia or Bilbao. The stigmatised and clandestine nature of sex work hinders the production of reliable data that could define where it is located, how many people are engaged in it, or their nationality. The only available figures are estimates, which are often manipulated to support an ideological agenda, rather than to show reality as it is.

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<sup>11</sup> G S Hora, *Where are the Female CEOs. A Global Study: Myths & Reality*, retrieved July 2017, <http://www.ircsearchpartners.com/thought-leadership/where-are-women-ceos-myths-and-reality/>

<sup>12</sup> World Economic Forum, *Global gender gap report 2016*, retrieved July 2017, <http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=ESP>.

<sup>13</sup> Spanish Statistical Office, *Unemployment rates by sex and age group*, data as for March 2017.

<sup>14</sup> Spanish Statistical Office, *Workers by type of workday, sex and age*, data as for March 2017.

According to the Ministry of Health, Social Services and Equality, there are an estimated 45,000 sex workers in Spain,<sup>15</sup> while both the media and some civil society organisations have been claiming for years that the number is 300,000<sup>16</sup> and between 80% and 90% of them do so against their will.<sup>17</sup> However, there are no reliable studies to support these figures. What we can definitively say, based on the work of the sex worker organisations and the interviews conducted in the present research, is that people who engage in sex work freely and voluntarily are a reality that cannot be ignored.

While there is a national alliance of sex worker rights organisations, most of the advocacy work and the services provided to sex workers are focused locally and done by organisations such as Hetaira in Madrid or Genera in Barcelona. Both of them were part of this research, along with the Feminist Group of Sex Workers (AFEMTRAS), and Sex Professionals Association (APROSEX) that are two self-organised groups in Madrid and Barcelona respectively, entirely formed by sex workers.

### Legislation on Sex Work and Human Trafficking

The regulation of prostitution in Spain has undergone several modifications in the past two decades.<sup>18</sup> In 1963, the Penal Code was amended to bring it in line with the UN Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (1949), and defined sex workers as victims of sexual exploitation. Clients were considered their exploiters, and thus purchasing sex was criminalised, ignoring any difference between consensual and forced sex work. In 1995, the Penal Code was amended again,<sup>19</sup> decriminalising the buying and selling of sexual services, as well as the management of prostitution by third parties, as long as these activities were conducted voluntarily. In 2003, another modification

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<sup>15</sup> Ministry of Health, Social Services and Equality, *Comprehensive Plan to Combat Trafficking in Women and Girls for the Purposes of Sexual Exploitation 2015-2018*, p. 37, retrieved July 2017, [http://www.violenciagenero.msssi.gob.es/otrasFormas/trata/normativaProtocolo/planIntegral/DOC/Plan\\_Trata\\_\\_2015\\_2018.pdf](http://www.violenciagenero.msssi.gob.es/otrasFormas/trata/normativaProtocolo/planIntegral/DOC/Plan_Trata__2015_2018.pdf).

<sup>16</sup> A Fotheringham, 'Spain, the world capital of prostitution?', *The Independent*, 5 December 2010, retrieved October 2017, <http://www.independent.co.uk/news/world/europe/spain-the-world-capital-of-prostitution-2151581.html>.

<sup>17</sup> G Altares, 'El PIB de la esclavitud sexual', *El País*, 8 July 2014, [https://elpais.com/sociedad/2014/07/04/actualidad/1404495394\\_132206.html](https://elpais.com/sociedad/2014/07/04/actualidad/1404495394_132206.html); M Muradas, 'El 90% de las prostitutas son víctimas de la trata con fines de explotación sexual', *Diario de Sevilla*, 23 March 2010, [http://www.diariodesevilla.es/sevilla/prostitutas-victimas-trata-explotacion-sexual\\_0\\_353065364.html](http://www.diariodesevilla.es/sevilla/prostitutas-victimas-trata-explotacion-sexual_0_353065364.html); ABC, 'Ocho de cada diez mujeres que ejercen la prostitución en España lo hacen contra su voluntad', *ABC*, 18 September 2015, retrieved September 2017, <http://www.abc.es/sociedad/20150918/abci-mujeres-obligadas-prostitucion-201509181643.html>.

<sup>18</sup> For a historic review of the legislation, see B Curiel, *Prostitución y políticas públicas: entre la reglamentación, la legalización y la abolición*, Fundación Alternativas, 2008.

<sup>19</sup> Organic Law 10/1995, 23 November 23 1995, Chapter V: crimes related to prostitution, sexual exploitation and corruptions of minors, available at [http://noticias.juridicas.com/base\\_datos/Penal/lo10-1995.l2t8.html](http://noticias.juridicas.com/base_datos/Penal/lo10-1995.l2t8.html).

established criminal liability for those who obtained benefits from the prostitution of others, even with their consent.

*Politically [prostitution] is not appealing because it doesn't ensure votes. There is a lot of abolitionist pressure from the media and politicians are scared. You gotta be brave to tackle the issue.*

***Silvia García and Elisa Arenas, Hetaira activists and staff members***

In February 2006, the Parliament adopted a decision establishing a special committee in order to prepare a report on the status of sex work in Spain, including an analysis of legislative options. The Special Committee adopted an abolitionist position, recommending an 'end demand' approach, combined with providing legal and social support to 'prostituted persons'.<sup>20</sup> It rejected the possibility of regulating sex work, claiming that it would clash with legislation on labour law and gender equality, and with the fundamental principle of equality recognised in the Constitution. The report also underlined the need to strengthen the implementation of legislation to combat trafficking in persons for the purpose of sexual exploitation. Since the publication of the report, prostitution has remained a grey area legally, and those who exercise it have not seen any improvement in their situation. In fact, the 2004 *Law on Comprehensive Protection against Gender Violence* left sex workers out of its protection by referring exclusively to violence against women within intimate relationships similar to marriage. An amendment introduced in 2010 reinforced the protection of minors and included a new section specifically devoted to trafficking in persons.

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A comprehensive plan against human trafficking, approved the same year, focused exclusively on human trafficking for sexual exploitation.<sup>21</sup> In 2011, in order to foster coordination of authorities in the identification, protection and

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<sup>20</sup> Comisión Mixta de los Derechos de la Mujer y de la Igualdad de Oportunidades en las Cortes Generales, *Informe final de la Ponencia sobre la prostitución en España*, 2007, [http://www.lourdesmunozsantamaria.cat/IMG/pdf/INFORME\\_PONENCIA\\_PROSTITUCION.pdf](http://www.lourdesmunozsantamaria.cat/IMG/pdf/INFORME_PONENCIA_PROSTITUCION.pdf).

<sup>21</sup> Ministry of Health, Social Services and Equality, *Comprehensive Plan against Human Trafficking*, 2010, available at [http://www.aulaviolenciadegeneroenlocal.es/consejoscolares/archivos/Plan\\_integral\\_contra\\_trata\\_seres\\_humanos.pdf](http://www.aulaviolenciadegeneroenlocal.es/consejoscolares/archivos/Plan_integral_contra_trata_seres_humanos.pdf).

care of victims of trafficking, the *Framework Protocol on the Protection of Victims of Trafficking in Human Beings* was adopted,<sup>22</sup> followed, in 2015, by a new plan to combat trafficking in women and girls for sexual exploitation.<sup>23</sup> Other purposes of exploitation, besides labour and sexual, were added to the Penal Code only in 2015.

Currently, the buying and selling of sex by adults is not a criminal offence, but third parties and living off the proceeds of sex work are. It is also legal to have an establishment where prostitution takes place as long as sex workers are adult, independent and not coerced, and the owner does not obtain economic benefits from their work. It is thus illegal to establish work contracts for prostitution, and labour legislation does not apply to sex workers. However, several tribunals have recognised some activities related to prostitution as labour relations, such as the solicitation of clients for the consumption of beverages.<sup>24</sup> Specifically, administrative and even criminal sanctions have been imposed on these establishments for ignoring the obligations derived from social security or labour rights, but not for exploiting prostitution.

In 2015, a controversial law, the Organic Law 4/2015 of 30 March, for the protection of Citizen Security, also known as the Gag Law because of its repressive nature, was promulgated. The law mentions specifically prostitution in article 36.11. It penalises the request and acceptance of paid sexual services when they occur in public areas nearby places intended to be used by minors, such as educational centres, playgrounds or parks, or when these behaviours, wherever they occur, can create a risk to road safety. The police require the persons who offer these services to stop doing so, informing them that failure to comply may constitute civil disobedience or resistance to authority—a catch-all article that makes invisible the real number of fines imposed to sex workers since they are mixed with all other fines. This Act criminalises prostitution in certain places at the national level and is used to harass sex workers. Some municipalities are not applying it, but Madrid does and very forcefully punishes sex workers.<sup>25</sup>

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<sup>22</sup> Ministry of Health, Social Services and Equality, *Protocolo marco de protección de las víctimas de trata de seres humanos*, 2011, available at <http://www.violenciagenero.msssi.gob.es/ca/otrasFormas/trata/normativaProtocolo/marco/docs/protocoloTrata.pdf>.

<sup>23</sup> See footnote 15.

<sup>24</sup> Among others, see judgement of the Supreme Court no.1390/2004 (22 November 2004), and judgement of the High Supreme Court of Murcia no. 284/2012 (16 April 2012) which established that this activity, provided that the elements of payment, dependency and fixed time are present, can be considered as a working activity in order to protect the rights of workers, convicting the brothel owner for not having issued working contracts and social insurance.

<sup>25</sup> Colectivo Hetaira, *AFEMTRAS y Hetaira denuncian abusos policiales en el Polígono de Villaverde contra las prostitutas*, 2016, available at <http://www.colectivohetaira.org/WordPress/afemtras-y-hetaira-denuncian-abusos-policiales-contra-las-prostitutas-en-el-poligono-de-villaverde/>.

*We are categorically against the citizen security law in these terms... We find absolutely contradictory a governmental discourse that states that a high percentage of women in prostitution are victims of trafficking, but passes a citizen security law that instead of having an approach that helps to identify those victims and to guarantee their human rights, mainly deals with matters of public order disruption and fines.*

**Marta González, Proyecto Esperanza Coordinator**

In addition, municipalities create their own specific regulations, which can be used by the police to control and harass (especially) street-based sex workers for example bylaws relating to ‘public nuisance’. Prior to 2006, prostitution was not prosecuted at municipal level, but after the first municipal ordinance was passed in Barcelona,<sup>26</sup> other municipalities followed. As Janet, one of the sex workers from Barcelona interviewed for this research, explained: *The actual purpose (of the ordinance) was to carry out street cleansing (...) it was not aimed at the sex industry, but against the precarious, the poor, the ignorant, and the migrant. It has mainly been used to get rid of the street workers while at the same time was giving licenses to new leisure facilities for the business elite.*

Subsequently, in 2011, the City Council of Barcelona approved regulation that prohibited the *inappropriate use of public spaces*, which included sex work activities too. This law allowed the police to fine both sex workers and their clients. In 2015, after the leftist party *Barcelona en Común* became the largest party in the city administration, a new regulatory framework, designed with the participation of sex workers, finally put a stop to the fines.<sup>27</sup> The removal of fines in Barcelona

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*The removal of fines in Barcelona has provided evidence that, on the one hand, prostitution sanctions do not have a deterrent effect and, on the other, removing sanctions does not lead to an increase in the number of sex workers.*

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has provided evidence that, on the one hand, prostitution sanctions do not have a deterrent effect and, on the other, removing sanctions does not lead to an increase in the number of sex workers.<sup>28</sup>

<sup>26</sup> Council of Barcelona, *Ordenanza de medidas para fomentar y garantizar la convivencia ciudadana en el espacio público de Barcelona*, 2006, <http://ajuntament.barcelona.cat/hisenda/es/ordenanza-de-medidas-para-fomentar-y-garantizar-la-convivencia-ciudadana-conv>.

<sup>27</sup> C Buesa, ‘Colau plantea eliminar las multas a las prostitutas’, *El Periódico*, 17 November 2015, retrieved July 2017, <http://www.elperiodico.com/es/noticias/barcelona/colau-plantea-eliminar-las-multas-las-prostitutas-4679554>.

<sup>28</sup> A L Congostrina, ‘Colau evita multar la prostitución callejera’, *El País*, 7 January 2017, retrieved July 2017, [http://ccaa.elpais.com/ccaa/2016/12/31/catalunya/1483172309\\_482487.html](http://ccaa.elpais.com/ccaa/2016/12/31/catalunya/1483172309_482487.html).

It is obvious that these ordinances are an example of ineffective public policy. None were designed to improve the safety of sex workers, although sex workers are exposed to high risks of extreme violence and even death. Between 2010 and 2015, 31 sex workers were murdered in Spain, in most cases with extreme brutality. This figure is equivalent to 5% of all the femicides in that period. In 22 cases, the perpetrators were clients.<sup>29</sup> However, sex workers are not covered by the Law against Gender Violence due to the transactional relationship with the perpetrators.

### Decriminalise, Abolish or Legalise

The three legal models—legalisation, abolition and decriminalisation—each have their proponents in Spain. Legalisation is supported by the National Association of Sex Work Venues (referred to in Spain as ANELA) and the Catalanian legislation.<sup>30</sup> This position proposes updating the old brothel legislation implemented as early as the end of the nineteenth century, which assumed that prostitution is a ‘necessary evil’ and that clients should be guaranteed safe sex, prostitutes registered, and street prostitution eradicated. The motivations of this model seem to be ensuring the economic benefits of prostitution and protecting clients, as opposed to protecting the rights of prostitutes. The abolitionist position is represented by some feminist associations with the support of some left-wing political parties. The abolitionist goal is to eradicate sex work in general, since, according to their analysis, it involves the debasement of women. This position omits an analysis of the economic base that underlies sex work as a labour option, that is, that women decide to engage in sex work to earn an income and decide to do so in the face of alternatives that are less economically lucrative.

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Sex worker rights organisations opt for a labour model which implies ‘depenalisation’. Hetaira argues that prostitution is not a crime in Spain, so it does not need to be decriminalised, and yet sex workers are being penalised under other regulations. Such an approach would remove these penalties, recognise sex work as work, regulate it under labour laws, and allow sex workers to demand better working conditions or to pursue justice in cases of rights violations.

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<sup>29</sup> G Atencio *et al.*, ‘El feminicidio en el sistema prostitucional del Estado español 2010-2015’, *Feminicidio.Net*, 2016, <http://www.feminicidio.net/articulo/feminicidio-sistema-prostitucional-del-estado-esp%C3%B1ol-v%C3%ADctimas-2010-2015-31-mujeres>.

<sup>30</sup> A Laguna, ‘La regulación de la prostitución’, *Pensamiento Crítico*, March 2006, retrieved June 2017, <http://www.pensamientocritico.org/crigar0306.html>.

## METHODOLOGY

Hetaira was the main partner in this research. It is the first feminist pro-rights organisation in Spain and through its work has become a benchmark for sex workers' rights in the country.

The organisation participated throughout the process of the design and implementation of the research. An initial meeting was held in September 2016 to share the research goals and assess Hetaira's interest in participating. Subsequently, several Skype meetings were organised to inform them about the process and to hear their views about the work in the country. In these discussions Hetaira suggested that Genera, a sex worker rights organisation in Barcelona and GAATW member, be included in the research. Although the research was mainly conducted in Madrid, the meeting in Barcelona allowed me to expand and enrich the national context. Most of the field work took place in February 2017.

Ten in-depth, semi-structured interviews were conducted, lasting between 45 minutes and two hours. In addition to these interviews, we organised two focus group discussions, which lasted between two and three hours. Participants were selected on the basis of their knowledge and experience with the organisation, but also their different positions within it to assure a variety of views. The purpose of the interviews was to document participants' views of the main issues affecting sex workers in Spain, the nature and impact of the anti-trafficking discourse and the strategies that sex workers and sex worker rights organisations employ to assist people who experience abuse and exploitation, including trafficking. Three categories of participants were interviewed:

1. Sex workers: a total of eleven sex workers were interviewed. Four of them participated in individual interviews: one cisgender woman and two transgender women from Ecuador, and one cisgender woman from Spain. In the focus groups, there were seven sex workers in Madrid—two of whom were also interviewed individually—and two in Barcelona. Out of these nine focus group participants, four were cisgender women—one from Ecuador, one from Uruguay and two Spanish—and five were transgender women from Ecuador. Throughout the report, reference will be made to the total number of participants as women, without distinction between trans and cis.
2. Organisational representatives: Mamen Briz, Hetaira co-founder and activist, Silvia García and Elisa Arenas, activists and employees involved in policy, research, operational roles, and direct assistance, and Johannes Mahn, activist, mainly involved with advocacy and international networks. At Genera, I talked to Anna Saliente and Clarisa Velocci, two long-term staff members.
3. Representatives of allied organisations: Marta González of Proyecto Esperanza<sup>31</sup> and Mario Blázquez from the Lesbian, Gay, Transsexual and

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<sup>31</sup> Support programme for women victims of human trafficking, part of the Congregation of the Sisters Adorers.

Bisexual Group of Madrid (COGAM). The purpose of these interviews was to elicit an external perspective on Hetaira's role in relation to responding to exploitation that sex workers can experience, and how they are perceived by other organisations.

All interviews with Hetaira and Genera staff and sex workers were conducted in their offices. The participants from allied organisations were interviewed in a private meeting room at their organisations' offices.

An information sheet was provided to all participants. It included project information, the contact details of the people involved in the research, the possibility to select a pseudonym to be used in the report and the consent form which were signed before the interviews.

I also visited the Industrial Park of Villaverde, one of the public spaces in Madrid where sex work is practised and where the women of AFEMTRAS work. This visit allowed me to have conversations with different sex workers and to listen to their concerns. Although at first the workers showed caution, their attitude became close and trustful when I was identified as collaborating with Hetaira, revealing the confidence that the organisation inspires among the workers. I also accompanied Hetaira to a meeting with the civic platform #nosomosdelito (a civil society platform to counter the abuses of the Gag Law). Here, I observed the organisation's alliances with other entities, and their capacity to create synergies with groups defending civil rights.

All interviews were conducted in Spanish and recorded. The quotes used in this report were translated to English by me and I humbly apologise to my interviewees if some of the authenticity of their language—sometimes angry, sometimes colourful and joking—is lost in translation.

All the data gathered was analysed and participants were invited to read and comment on the first draft report in order to ensure that their insights and views were accurately reflected.

The findings of this report cannot be considered representative of the wider sex worker population in Spain, due to the limited sample involved. Nevertheless, participants provided honest and in-depth insights to the empowering effect of self-organising and its role in addressing discrimination, stigma, and exploitation.

## FINDINGS

### Background of Hetaira: Solidarity with sex workers

*The first time we had a prostitute by our side telling us about her profession, I had the intuition that there were many more things uniting us than separating us.*

**Mamen Briz, Hetaira activist and co-founder**

Hetaira is a national feminist pro-rights organisation that seeks the recognition of sex work as work. Being pro-rights means advocating for the recognition of social and labour rights of people engaged in prostitution. Hetaira acknowledges that prostitution occurs within a wider hetero-patriarchal system and, therefore, that feminists need to support the self-organisation of sex workers. Hetaira's mission is solidarity among women and the achievement of collective rights. Their aim is to improve the lives of those who work in prostitution and hence, sex workers are the centre of the organisation.

*With certain marginalised groups we tend to think that we are the ones having the answers. We wanted to be close to the places where the prostitutes worked, to know what they needed, what they wanted. Alone we could've done the wrong thing, but together we could create what prostitutes actually needed.*

**Mamen Briz, Hetaira activist and co-founder**

Hetaira was founded in 1995 but its history began years earlier, when the feminist movement first mobilised against gender-based violence. Some of the women involved in this struggle started thinking how there were certain women with whom they had no contact at all, and knew nothing about. In the case of sex workers, it was assumed that they were being abused because they were women and because they were sex workers. Therefore Hetaira organised a series of

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*Being pro-rights means advocating for the recognition of social and labour rights of people engaged in prostitution.*

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debates and panel discussions where, for the first time, prostitutes were invited to participate and share their experiences. They realised that, despite

having different histories, there were many similarities in the sex workers' experiences of discrimination, exploitation and violence. They continued to meet with street-based prostitutes with the aim of developing an understanding of their lived realities and needs. Both sides were initially suspicious of each other and it took time to build rapport. After two years of continuous work Hetaira was created

as a space to fight the ‘whore’ stigma<sup>32</sup> that divides women into good and bad ones, and to promote a movement of solidarity with sex workers.

Hetaira is a very diverse organisation, comprising different professionals, including sex workers and academics, of different ages, nationalities and genders, all of whom contribute to a continuous exchange of ideas and perspectives. The majority of members are strongly motivated activists, although at the moment there are only two paid staff members.

In addition, Hetaira has created and strengthens alliances with the world of academia, LGBTI, queer and trans movements. Hetaira also has the support of individuals belonging to political parties and trade unions.

### The Benefits of Organising

*Prostitution is exercised in a very isolated way, with an individual experience of stigma and a lot of competition among workers. Self-organising creates a sense of collective and allows for collective empowerment; this enables everything else.*

***Elisa Arenas, Hetaira activist and staff member.***

Self-organising is a process of collective education and learning in which people expand their knowledge and develop their skills through interaction with peers. Supporting grassroots self-organising is the core of Hetaira’s work. Hetaira reaches out to sex workers in their workplaces, but it is up to the sex workers to become involved with the organisation. This is a reciprocal process, in which the most empowered women become engaged in Hetaira and, in turn, Hetaira identifies potential leaders among the community.

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*Self-organising empowers sex workers to be the protagonists of their own stories, allowing them to stand up and advocate for their rights.*

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Self-organising empowers sex workers to be the protagonists of their own stories, allowing them to stand up and advocate for their rights. As Rebeca, one of the interviewed sex workers stated, ‘an organisation of sex workers allows them to be the ones who defend their own business’. Collective advocacy increases public awareness of the impact of stigma on sex workers, and the conditions in which they work. Self-organising also leads to increased self-esteem and self-care, which

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<sup>32</sup> ‘Stigma is an external mark from which social behaviour from a person or group is determined. This is the case with people who engage in sex work. By working as such, society deems it normal to deprive them of certain rights, they are devalued as persons and that prejudice stigmatizes them. It has a repressive function’, explains Dolores Juliano, an Argentine anthropologist and writer. Interview published in the newspaper *El País*, Spain, 20 October 2003, [https://elpais.com/diario/2003/10/20/paisvasco/1066678810\\_850215.html](https://elpais.com/diario/2003/10/20/paisvasco/1066678810_850215.html).

helps them to deal with abuses. This allows sex workers to deal with their feelings of guilt for being 'bad women' which follow them as part of the prostitution stigma.

Most of the sex workers participating in this study are women with a long history of self-organising to fight for their rights, and they have a strong feeling of belonging to something bigger than themselves. They highly value the support they receive from colleagues and from Hetaira. All these factors have a positive impact on their self-perceptions and their ability to respond to situations of aggression, abuse, injustice, and exploitation.

*Being a whore has never been a stigma for me, I've never had to explain myself to anyone (...) I couldn't care less about being branded by society because society doesn't pay my bills.*

**Janet, sex worker**

Hetaira recognises that self-organising has its challenges. At first, they were frustrated because sex workers were not as engaged as they had expected. However, they managed to understand and adapt, creating a permanent nucleus with the workers who are more involved, and maintaining a broader circle with those who participate occasionally.

The first group supported by Hetaira was the Montera Group in 2001. They took the name from a popular street in downtown Madrid where sex work takes place openly. An Ecuadorian sex worker leader wanted to organise her colleagues, and Hetaira asked what they needed. Another group of activists involved with Hetaira and defending their rights also since 2001, registered themselves as AFEMTRAS in 2015, in response to the police abuses under the Gag Law.

*After forming our platform, we wanted politicians to say 'you know each other, let's meet up all those workers that are free and let you all register as sex workers, let's regularise this'. That is why we decided to form this organisation, to fight for our rights and those of many friends and colleagues while helping with the issue of human trafficking. But we are still invisible to the rest of the world.*

**Vera, sex worker from AFEMTRAS**

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*Self-organising greatly improves working conditions.*

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On a more practical level, self-organising greatly improves working conditions: it gives sex workers the chance to talk with

colleagues about their work, and ask each other questions about the profession (since prostitution is taboo, it is not easy to find information), care about each other, and increase safety through self-defined care strategies.

## Challenges for Sex Workers in Spain

### Stigma

*Break the stereotypes: get a sex worker friend!*

#### **Focus group discussion**

The stigma attached to earning a living as prostitute is the biggest problem faced by sex workers—they are stigmatised for being women who achieve their economic independence through the sale of sexual

services. Religion, society and ideology aim to control the sexual behaviour of women and imbue the word ‘whore’ with pejorative meanings, establishing two classes of women—the good and pure ‘Madonna’ and the dirty, immoral and disposable ‘whore’.

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*Breaking the socially constructed stereotypes about prostitution would help dismantle stigma, and would allow sex workers to speak about what they do, without having to lead double lives.*

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*When it comes to prostitution, we need to convince every person individually. With other issues, people come without preconceptions but in the case of prostitution, everyone brings their own prejudices.*

**Mamen Briz, Hetaira activist and co-founder**

Stigma is deeply rooted and while policies do affect public perceptions, it does not disappear when laws and policies are changed. Indeed, some policies and interventions actually increase stigma. Most government campaigns repeatedly conflate prostitution with sexual exploitation, and aim to eradicate both as if they were the same thing.

*It would be great to be able to identify where the basis of ‘whorephobia’ lies and how it influences public policies; to know what happened that sex workers are not considered citizens.*

**Mario Blázquez, COGAM**

Breaking the socially constructed stereotypes about prostitution would help dismantle stigma, and would allow sex workers to speak about what they do, without having to lead double lives.

*It is necessary to stand up. Other people did it earlier for other reasons. To take a step forward, you have to keep walking with your head held high.*

**Dayana and Viko Fetish, sex workers**

To combat stigma, some sex workers consider it important to be open and show their face publicly although there may be consequences of openly identifying as sex workers.

*The media are abusive and say whatever they want. They record us and show it on TV without our permission. As if one does not have a life of her own, an intimate life that should be lived intimately. And don't tell me that because I'm standing in that corner, I'm a prostitute and I get on TV. I've seen myself many times on television. They don't cover our face, they simply show us.*

**Catalina, sex worker**

Stigma is especially grave for street-based workers. There is a hierarchy that positions street workers at the bottom, partly because they are the most visible, and thereby visibly challenging the established social conditioning. However, the street workers I talked to highly value the freedom of working in the street. It allows them to decide when to go or how long to stay, the services they are going to offer, to choose their clients and to support each other against police or client abuses.

Sex workers are workers who provide for their families, and citizens who contribute to the economy by paying taxes on the goods and services they buy. Ultimately, what should provoke outrage is that, as workers and citizens, they do not receive the same social and medical services as other citizens.

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as other citizens*

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*If women's human rights are to be defended (...) then those of all women have to be defended, not just some and not the other.*

**Clarisa Velocci, Genera**

## Talking About us Without us

*The most important thing is to be realistic. Try not to see what you want to see or what you think you see, but see what is really there.*

**Johannes Mahn, Hetaira activist**

Both the media and the authorities talk *about* sex workers instead of *to* them. The interviewed sex workers shared several examples where their words have been misrepresented or what they said was taken out of context. The media manipulates reality to suit their agendas, and denies sex workers even the right to name themselves as they want. Sex workers find it increasingly difficult to find spaces where they can raise their voices, present their own reality and claim their rights.

*Media never talks about the abuses of the police, this is a shame, we are suffering abuses and police humiliations but the media never talk about it.*

**Beyonce, sex worker**

When a sex worker who does not fit the victim label imposed on her wants to share her experience and her perspective, she is dismissed as unrepresentative. This is especially evident with transgender women whose arguments are often dismissed as unrepresentative of women.

*I am proud to be a sex worker, but I refuse to believe that just because I'm a transsexual I can't access other job options.*

**Dayana, sex worker**

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*The voices of women who have suffered sexual exploitation are used to talk about prostitution without establishing a meaningful and rigorous differentiation between them.*

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Finally, the voices of women who have suffered sexual exploitation are used to talk about prostitution without establishing a meaningful and rigorous differentiation between them. It is often contended that giving rights to sex workers would somehow take away rights and

entitlements from victims of trafficking. This is a fallacy that only serves to pit one

group of women against another and reduce the opportunities for feminist solidarity.

## Public Policies

*When sex workers are so strongly attacked, you ask them what is the main problem and they will respond that they want to work in peace. It's the same issue as 20 years ago, it's the same request. Except that before, the passing of certain ordinances seemed like a threat and now we are living it.*

***Mamen Briz, Hetaira activist and co-founder***

Hetaira argues that penalising policies are not the biggest problem faced by sex workers, but they are certainly making everything more complicated and affecting their everyday life. As Mamen remarks, 'sex workers are working in a very difficult context, with great helplessness. This situation relegated them to private spaces where they are not seen. When sex workers are no longer seen, people pretend they don't exist.'

In Madrid, there used to be streets with a significant concentration of apartments where sex workers worked, but since 2004 several measures have been implemented that have forced sex workers to work in more distant areas. Silvia García from Hetaira pointed out that 'women are forced to move to other places to work, but there is no response to their needs, nor a negotiation of safe spaces where they can work'.

More and more sex workers are working privately through the internet. Thus while sex workers' independence and earnings have increased, this has come at the expense of safety. In clubs, sex workers have alarm buttons under the bed and in the street they are surrounded by colleagues, but at home, when meeting a client from the internet, they are all alone.

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*Penalising policies not only fail to achieve their intended goals, but also increase the vulnerability of those they purport to protect.*

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As per the sex workers interviewed, penalising policies not only fail to achieve their intended goals, but also increase the vulnerability of those they purport to protect in two key ways. Firstly, the criminalised environment limits the time sex workers have to negotiate with prospective clients, both of which can result in them taking greater risks, for example, agreeing to riskier sexual practices. Secondly, the fines cause a considerable reduction in their income, with some sex workers feeling compelled to move to other countries in order to work unhindered.

Still, the grey area in which prostitution remains in Spain has some advantages:

*This legal limbo is not the worst, there are better models but there are also worse. This grey legal area makes sex work invisible but living in our society, where the stigma is so strong, this is an advantage. You are a prostitute and no one has to know. Sex workers do not have to expose themselves.*

**Johannes Mahn, Hetaira activist**

The local government in Madrid, 'Ahora Madrid' (Spanish for 'Madrid now'),<sup>33</sup> has been insensitive to the needs of sex workers. Despite their commitment in their political programme *to develop policies in favour of the rights of prostitutes with their collaboration*,<sup>34</sup> they are simply continuing the previous victimising approach and the criminalisation of sex work without any critical questioning.

### Economic Crisis

The economic crisis that hit Spain in 2008 has had a negative impact on the working conditions of prostitutes and has increased the precariousness of their work. The number of clients has declined and prices have fallen, which has led women to work more hours, see more clients, and be prepared to engage in riskier practices in order to maintain their income.

### Abolitionist Movement

*There is a well-meaning abolitionist speech towards women, but they consider them primarily victims and that causes prostitution to be approached from an unrealistic point of view regarding the different situations within it. Thus, either nothing is done to improve sex workers' conditions or, in the worst case, they are criminalised.*

**Elisa Arenas, Hetaira activist and staff member**

The abolitionist discourse was not very strong when Hetaira was founded, but today it is the hegemonic position both within and outside government institutions. Despite their good intentions, abolitionists promote the idea that sex workers are the ultimate victims of male exploitation without any capacity for individual thought or decision-making. The abolitionist discourse has established

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<sup>33</sup> A party formed by the confluence of left-wing people, groups, parties and social movements which won the municipal elections in 2015.

<sup>34</sup> 'Ahora Madrid political programme', 2015, p. 35.

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*The abolitionist discourse has established an incomplete causality: it argues that women are trafficked because of the mere existence of a sex industry and if the industry disappears, trafficking will disappear.*

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an incomplete causality: it argues that women are trafficked because of the mere existence of a sex industry and if the industry disappears, trafficking will disappear. However, the reasons for human trafficking lie in deeper and more structural issues,

such as poverty, lack of opportunity, lack of social protection, and restrictive migration policies. The abolition of the sex trade, or the criminalisation of sex workers or clients, will not address these conditions.

*When abolitionism is brought to practice and takes the form of public policy, what it does is worsen sex workers' living and working conditions.*

**Silvia García, Hetaira activist and staff member**

Participants from Hetaira agree with the abolitionist movement that prostitution is a patriarchal institution occurring in a patriarchal and neoliberal scenario, but Hetaira's starting point is what they can do within the current system to improve the lives of the women. The measures offered by abolitionists are generally 'rehabilitation', which is not only conceptually flawed, but also ineffective, given that there are few alternatives in very precarious labour sectors.

*I work in the street because I earn more money than in other jobs and I determine my schedule. I choose the services I do and the clients I go with. The money I earn is mine.*

**Catalina, sex worker**

As Elisa from Hetaira says, 'abolitionism denies systematically the different voices within prostitution and the existence of sex workers that are demanding rights. This is even more problematic when feminism is instrumentalised to that end.'

### **Training and Exchange of Knowledge**

Sex workers mostly agreed that there is a lack information to guide those who decide to engage in sex work, for example, about the services they provide, prices and working conditions, as well as a lack of social and psychological support, and information on more specific issues such as prevention of abuse, or the laws that could affect them.

*I am a working-class whore because I work in the street, but we are no different from sex workers in other places. Each scenario has its own realities and the training we need should be focused on the reality of the place where we want to be (...)*

***Ninfa, sex worker***

Sex worker rights organisations are the ones providing information and advice to women who start in the sector so that they know and understand their rights. As Paula Vip from APROSEX pointed out, ‘the professional must always hold the power because it is a relationship of money exchange.’

### **Organisational Challenges**

Hetaira faces several organisational challenges, including loss of members to migration, an ideological offensive against it as a sex worker rights organisation, and funding challenges.

The difficulties which sex workers face due to relentless police harassment and fines have caused many sex workers to migrate to other European countries. The increasingly high mobility of potential leaders negatively impacts on the continuity and stability of self-organising, and weakens the movement.

More collaborative and coordinated work is needed among sex worker rights organisations as there is a strong offensive against them. As organisations that support sex workers, they share the social stigma and face insults and defamation about the work they do, the funds they receive, or the motivations of their work. While Hetaira and Genera are members of a national pro-rights platform, the platform lacks effective coordination.

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*More collaborative and coordinated work is needed among sex worker rights organisations as there is a strong offensive against them.*

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*Alliances must be taken up. It is not only the sex worker organisation, but that each organisation of sex workers, from their own space (...) takes on the other sex workers' demands as their own. It generates a stronger and unified collective.*

***Clarisa Velocci, Genera***

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*Hetaira has more than 20 years of experience working side by side with sex workers, and implementing best practice interventions to support sex workers' rights with very limited resources.*

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Hetaira's political position in defence of sex workers' rights usually prevents them from receiving funding from some government programmes. Instead of supporting organisations which

implement programmes that improve the working conditions and human rights of sex workers, a lot of resources allocated for prostitution and the fight against sexual exploitation are invested in 'awareness-raising' campaigns that stigmatise prostitutes.

Hetaira has more than 20 years of experience working side by side with sex workers, and implementing best practice interventions to support sex workers' rights with very limited resources. Economic constraints have forced Hetaira to stop providing some services which they previously offered, such as the support for women who wish to leave prostitution. Now these women have to be referred to other organisations where a whole new process of trust building has to start in order to receive quality assistance.

*We have a lot of work, but we have no money. Our working conditions are very precarious and we can't implement all the ideas we have because of lack of funds.*

**Johannes Mahn, Hetaira activist**

It is also important to note that sex workers organisations in the global north are often not considered for funding by international donors or specific funds for sex workers. There is an assumption that because they are located in wealthy countries, they have the necessary funds to exercise activism.

*'Luxury bitch' ... I do not mind you calling me bitch, but I hate it when you talk to me about luxury because our situation in Europe is very precarious.*

**Clarisa Velocci, Genera**

## On Trafficking: Human trafficking as a reality and as a discourse

Since the 1990s, the rise in international migration has coincided with an increased concern about human trafficking. Originally, Hetaira considered that human trafficking was not their remit since their focus was the defence of sex workers' rights, and because they did not see instances of trafficking in the areas where they worked. However, due to the dominant abolitionist narrative, Hetaira is now compelled to understand and analyse the issue, get involved in the debate, and introduce an alternative analysis.

According to a 2010 UNODC report,<sup>35</sup> about 14% of women in prostitution are trafficked. This figure seems to be much closer to reality than the 90-95% that is often repeated by the police, politicians, media and social organisations. It also offers a further example of the contradictions between the official discourse on protection of victims, and the criminalising policies that have been implemented as anti-trafficking measures. Instead of identifying and assisting trafficked persons, authorities prosecute and fine sex workers, hampering the much-needed trust relationship between the police and prostitutes.

*It is very funny that when we say that we do training, people assume that we train sex workers. We have to clarify that they are already very skilled, and that we train professionals to identify human trafficking because there is such confusion and stigma with prostitution, that same stereotyped narrative about human trafficking and prostitution is reproduced, and identification levels of human trafficking cases are very low.*

**Clarisa Velocci, Genera**

A better reciprocal trust between sex workers and police could improve the anti-trafficking response since sex workers would be more inclined to report instances of abuse and exploitation to the authorities.

Participants in this research articulated that human trafficking as a reality and human trafficking as a discourse are two distinct issues that affect sex workers differently. The *crime* itself occurs in prostitution as it does in other labour sectors and obviously must be prosecuted, and the rights of trafficked persons must be protected. As far as the anti-trafficking *discourse* is concerned, they believe that it

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<sup>35</sup> UNODC; *Trafficking in Persons to Europe for sexual exploitation*, 2010, p.7, [https://www.unodc.org/documents/publications/TiP\\_Europe\\_EN\\_LORES.pdf](https://www.unodc.org/documents/publications/TiP_Europe_EN_LORES.pdf)

is being used to target the sex industry and, therefore, sex workers and the organisations that work with them.

In the individual and group interviews, sex workers demonstrated a general understanding of what human trafficking is. They defined it as *capturing people, deceiving them and forcing them to do something*. They think that trafficking mainly occurs in the indoor sex industry, although they were aware that in the street there are also cases of women who are coerced. In the areas where they work, most sex workers know each other, so it is easy for them to recognise indications of trafficking. However, in the current legal regime, this would mean exposing themselves to the police and potentially to harassment and fines. They added jokingly that the police work along the same streets, and also know the workers. They too should be able to detect potential situations of exploitation even more so than the sex workers, given their resources and capacity to act.

*When sex workers organise to defend their rights, they are delegitimised by the abolitionists, and Hetaira and COGAM, as organisations that support them, have been called slaveholders and traffickers.*

**Mario Blázquez, COGAM**

Being identified by the human trafficking discourse as victims, irritates sex workers because it negates their personal realities and their ability to decide autonomously. In addition, individuals providing services to sex workers have been accused or slandered as traffickers. For example, a sex worker who used to earn

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*Anti-trafficking policies in Spain employ a definition of human trafficking which includes trafficking into all labour sectors, not just the sex industry. Nevertheless Spain focuses its anti-trafficking work on sexual exploitation.*

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extra money by bringing and taking the workers with her car to their workplaces was prosecuted for trafficking, although she was later acquitted because there was no evidence to support the case. In another case, a former client who used to sell snacks, soft drinks and water to street workers, was accused of trafficking. The case was shown on television as a case of sexual

exploitation. In both situations the information was manipulated—for example notebooks in which the two accused kept accounts of payments and debts were used to try to prove that they were exploiting sex workers.

## Response to the Anti-Trafficking Discourse

*Anti-trafficking policies have negatively impacted sex workers; they have been used to detect undocumented immigrants and to deport women. Migrant sex workers are counted in statistics as women at risk, but all that is done with these women is to deport them. In the end, these policies are a strategy to control female migration.*

***Silvia García, Hetaira activists and staff member***

Anti-trafficking policies in Spain employ a definition of human trafficking which includes trafficking into all labour sectors, not just the sex industry. Nevertheless, and despite the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in its 2013 report,<sup>36</sup> in practice, Spain focuses its anti-trafficking work on sexual exploitation. In June 2017, GRETA again visited the country for its second round of evaluation of the country's implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. The progress made in this respect is yet to be seen.

*Some professionals [sex workers] do not want to know anything about the issue of trafficking, 'we are defending our rights, we are mistaken with trafficked women and on top of it we are asked to solve it' they say. At the same time, there are other professionals that consider that they are the best to intervene because they see and understand sex workers' reality.*

***Clarisa Velocci, Genera, and Janet, sex worker***

Indeed, in 2008 and 2012 Hetaira applied to become a member of the Spanish anti-trafficking network but was rejected both times, despite fulfilling all the necessary requirements. While it did not receive any reasons for this rejection, the organisation suspects that it may be related to the fact that they work to support sex workers' rights.

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*Organised sex workers put a lot of efforts into challenging disempowering ideas about prostitution.*

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Despite these frustrations, Hetaira tries not to be adversarial with other organisations, and instead, aims to create alliances with organisations that can

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<sup>36</sup> Group of Experts on Action against Trafficking in Human Beings, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain*, 2013, p. 34, retrieved July 2017, <http://globalinitiative.net/wp-content/uploads/2017/01/greta-spain-2013.pdf>

benefit the defence of sex workers' rights, which, at the end of the day, is its *raison d'être*. It participates in debates that critique the continued representation of women as victims, and in spaces where government representatives and public institutions can be influenced. As Mamen Briz said 'We go where the discourse on trafficking can serve and help us.'

Organised sex workers put a lot of efforts into challenging disempowering ideas about prostitution. For example, Marcela told me that one night, while working, an NGO distributing condoms approached her. She asked them if they were helping sex workers out of pity and when they said no she kept asking, '*But then why aren't you pro-rights? Do you want us to have rights?*' To this question they replied hesitantly and Marcela told them, '*You see? You either help us or you don't, there are no nuances.*'

### Hetaira's Approach

*There is no other organisation we can fall back on as we do with Hetaira. The rest support us on their terms.*

***Vera, sex worker***

Hetaira's work has two main focus areas: political advocacy and social intervention. Political advocacy is focused on defending sex workers' rights, improving their working and living conditions, and breaking the stigma and the stereotypes by which society defines them. The clear political stance of Hetaira is costing them dearly—they are marginalised socially, politically and financially. As Mamen stated, 'sometimes defending human rights causes you enemies'. However, their strength lies precisely in this political stance that has allowed them to create a relationship of trust with sex workers, a discourse based on evidence, and alliances with movements and organisations in defence of human rights and citizenship.

*... All the things we do are things that they (sex workers) have taught us...*

***Silvia Garcia, Hetaira activist and staff member***

Hetaira's social interventions can be divided into three main areas. First of all, they offer advice and support to sex workers, which want to work under better conditions. This includes counselling to register as a self-employed worker; support for the development of additional skills (for example the provision of niche services), negotiation skills with customers, etc. Secondly, they also provide psycho-social assistance that is not strictly related to sex work, such as access to

social resources, immigration formalities, conflicts within the family and any other issue that could arise from their status as women, many times head of family, and often migrant. Finally, they provide legal advice on a number of issues, ranging from dismissal from work, non-payment of wages and assaults, to being photographed or videotaped without permission.

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*Hetaira's strength lies in its political stance that has allowed them to create a relationship of trust with sex workers, a discourse based on evidence, and alliances with movements and organisations in defence of human rights and citizenship.*

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Hetaira distributes information materials among sex workers so that they become familiar with the laws that affect them, the rights that cover them, and how to defend these rights. For example, regarding the police abuses in the Villaverde Industrial Park, they developed, in

coordination with #nosomosdelito, leaflets with recommendations that they distribute among sex workers so that there is an informed and collective response to the abuses.

Hetaira does not handle human trafficking cases directly, but if they detect a potential case, they refer it to Proyecto Esperanza which is the first anti-trafficking programme with which they collaborate. Proyecto Esperanza works from a human rights perspective, or in the words of the coordinator Marta González, *our main interest is to listen to the women, to stand by them and to accompany them in whatever they decide to do*. As for cooperation with the government and police, this is more difficult because of the significant mistrust due to cases of police abuses and immediate deportations. When the sex workers of AFEMTRAS suspect a potential case of human trafficking, they first discuss it among themselves to collect all the information, and subsequently communicate it to Hetaira or the NGOs working in the area. As Elisa from Hetaira says, 'being organised and being able to count on the colleagues gives them a lot of confidence to speak out about this or any other issues'.

### Organising to Resist Police Harassment

One month before the promulgation of the Gag Law, sex workers began reporting to Hetaira an increase of police presence and of insults, harassment and threats of physical aggression, from the police unit which combats illegal immigration, called UCRIF,<sup>37</sup> and particularly from the Chief of Brigade of a local unit, as well as one of

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<sup>37</sup> Unidad Contra las Redes de Inmigración Ilegal y Falsedades Documentales (Illegal Immigration Network and False Document Unit). UCRIF is responsible for investigating criminal activities at

his subordinates. Although abuses have been reported since 2013, the promulgation of the Gag Law in July 2015 was the trigger for the daily fines and continuous abuse.

In the face of these events, Hetaira met with the local government Delegate to report the police abuses and find out why the workers were being fined, since when the Law was announced, assurances were given that it would not be used to fine sex workers. At that meeting, the Delegate promised that the fines that had been issued to sex workers would not be processed, and that in the future only clients would be fined. However, five months later, sex workers began receiving the fines at their homes, so Hetaira met with the Delegate again. The explanation given was that the workers were fined for disobeying the police, a charge that cannot be ignored. This explanation is inconsistent, due to that the disobedience they refer to is actually the fact of working as prostitutes. However, the evidence gathered by Hetaira showed that charges were more dependent on the authorities' whims than on actual violations.

*The police are abusive, some say one thing, others say another, and nobody knows who to listen to. I used to work at a roundabout and nobody bothered me. The Gag Law came and the municipal guards told me that I couldn't work there anymore, but that I could do it a little bit further. Next day, I went to work where they had told me, but the UCRIF arrived and they told me that I couldn't work there and fined me. They told me another place where I shouldn't have problems. Next day I went there and a different UCRIF squad came and fined me for being where the commissary told me the day before. The officer added that she will fine me every day no matter where I stand.*

**Catalina, sex worker**

As reported in the newspaper Público in December 2016,<sup>38</sup> several NGOs, including Hetaira and AFEMTRAS, filed a complaint with the Higher Police Headquarters, the Ombudsperson and the Government Delegation, in order to take the necessary measures to stop violating the rights of those who practise prostitution. Although a request was also sent to organisations which are members of the Technical Committee of Prostitution<sup>39</sup> to support the public complaint, none of them did so.

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national and transnational levels related to human trafficking, migrant smuggling, illegal immigration and alleged forgery for migration. This case refers specifically to the XI Group of the Provincial Brigade of Alien Affairs and Documentation

<sup>38</sup> S Rodríguez, 'Un inspector jefe de la Policía intimida a las mujeres en prostitución en un polígono industrial de Madrid', *Público*, 20 December 2016, retrieved July 2017, <http://www.publico.es/sociedad/inspector-jefe-policia-intimida-mujeres.html>,

<sup>39</sup> Working group of associations that work on prostitution in Madrid, by gathering information and developing proposals on the matter.

The spokesperson of the Higher Police Headquarters declared that ‘after internal investigations, these facts have not been proven and that all the Security Bodies working in the Villaverde Industrial Park act in line with police ethics’.<sup>40</sup> In light of this outcome, sex workers continued to organise different actions to demand a strong response to the police abuses. In January 2017, the inspector who was committing the abuses was asked to appear in Congress. At the time of writing, this has not yet happened, and Hetaira is planning its next steps.

There are several disappointing issues about this process. Firstly, there is an unsatisfactory response and lack of transparency of the Higher Police Headquarters. Secondly, there was a weak response from the institutions whose roles are to represent citizens’ interests and respond to their concerns—the Government Representation Department and the City of Madrid. Finally, there was a lack of mobilisation and support from organisations working with prostitutes, which have neither publicly condemned the police abuses, nor discussed strategies to combat them.

On the other hand, a positive outcome of these events was that they strengthened the movement. Since AFEMTRAS was formed as a loose collective in 2001, it had become increasingly organised and strong through the support of Hetaira. The campaign to resist the Gag Law helped AFEMTRAS gain more publicity as an independent organisation.

*The abuses to which these agents subjected women increase the vulnerability of both sex workers and potential trafficked persons for whom confidence in the State bodies and security forces is fundamental (...)*

***Hetaira’s formal complaint to the National Police Headquarters***

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<sup>40</sup> S Rodriguez.

## Conclusions and Recommendations

This research has allowed us to identify the main issues affecting sex workers in Spain, and the strategies that they and sex worker rights organisations employ to counter them. The findings indicate that the trafficking framework does not help to address the ways in which sex workers do experience exploitation; it only diverts resources to useless and harmful interventions and public policies that empower the police to harass and abuse street-based sex workers and migrants in the sex industry.

The key to developing effective policies and programmes that affect sex workers is as simple as listening to them, and daring to create alternatives that break with the criminalising tradition of prostitution which deprives sex workers of the ability to enjoy their human rights. Complete depenalisation of prostitution and its regulation under health and labour law is not a panacea, but it is the first step to better protect sex workers' rights. Additional measures need to be taken to destigmatise prostitution and, more broadly, fight gender violence and promote the value of women's paid and unpaid work in society.

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**A more effective approach to human trafficking in the sex industry requires a conceptual shift towards respecting and protecting sex workers' human rights.** Punitive policies and police abuses are directly affecting sex workers on the street. The immigration authority, UCRIF, is responsible for investigating cases of human trafficking, but has failed to establish trust with sex workers which would improve the identification of exploitative situations. Likewise, it is necessary to train front-line professionals in identifying human trafficking cases beyond the stereotypical, sensationalistic narratives and images.

**The anti-trafficking framework promotes more criminalisation and migration restrictions that are not helpful to either migrants or trafficked persons but only serve to restrict women's migration.** Behind trafficking situations there is often a frustrated migration process. To eliminate trafficking in persons, states must ensure safe migration as a right, and guarantee the rights of all migrants.

**The fight against trafficking in persons is used to target sex work, and as a consequence, sex workers and the organisations supporting them.** Prostitutes who have chosen to work in the industry have encountered denial of their rights both within and outside legal frameworks. They practically cease to exist as citizens and even human beings. The incessant debate on sex work exposes a

frightening struggle for the supremacy of notions of morality and decency versus justifiable rights. At the same time, the focus on the sex industry deflects attention from other sectors where human trafficking occurs and fails to identify and assist trafficked persons in them.

**Although sex workers and sex worker rights organisations are able and willing to report instances of trafficking, they are actively excluded from formal anti-trafficking structures, regarded with suspicion and heavily underfunded.**

**The focus on trafficking distracts attention from the more everyday rights violations that sex workers face.** Human trafficking and exploitation are different phenomena: both require an adequate response and real opportunities for the restitution of rights. Sex workers recognise themselves as workers and are demanding safe places for work, labour rights and social benefits like other workers. Sex work policies which respond to them should be based on a human rights and feminist social justice perspective. Trafficked persons are entitled to rights and protections too but one reality cannot make the other invisible, nor can the rights of some women be placed above those of others.

**Organising among sex workers has an empowering effect, leading to reduced risk of exploitation and trafficking.** Self-organising strengthens sex workers both individually and collectively, and enhances their ability to respond to situations of violence and abuse. Self-organising is crucial in mitigating the isolation and stigma that permeate sex workers' lives. Organised workers in any sector are empowered workers and are thus less vulnerable to rights violations, abuse and exploitation. Human rights activists, trade unions and funders need to extend their solidarity to sex workers who organise to demand their rights.

**Stigma is the greatest challenge for sex workers and the driver of all the difficulties they face.** It permeates each and every aspect of their lives. Both the authorities and the media perpetuate a biased view of sex work, which in no way advances women's rights. It is therefore urgent to break the socially constructed stereotypes about sex work to ensure that the people who practise it can live a full life, and enjoy the same rights as everyone else.

In the light of the above, this report makes the following recommendations:

**To government and municipal authorities:**

1. Repeal public policies that penalise sex workers and recognise the rights of those who work in prostitution through labour legislation;
2. Stop the fining of sex workers and clients under the Gag Law and local ordinances, and investigate allegations of misuse of power;
3. Focus more in detecting abuses and exploitation rather than minor administrative offences;

4. Establish areas where sex workers can work without fear of arrests or fines;
5. Invite sex worker rights organisations to participate as equals in the development of policies that affect them, including policies on human trafficking;
6. Implement awareness campaigns advocating for the respectful treatment of all women, without making distinctions between sex workers and other women;
7. Ensure that anti-trafficking campaigns do not stigmatise sex workers;
8. Ensure safe migration as a right, and guarantee the rights of all migrants.

**To anti-trafficking organisations:**

1. Put an end to the conflation of trafficking and sex work and the perpetuation of harmful stereotypes about both trafficking and sex work;
2. Recognise the potential role that sex worker rights organisations can play in the fight against trafficking;
3. Invite sex worker rights organisations to participate as equals in anti-trafficking structures;
4. Widen the focus of anti-trafficking interventions to identify both abuses within sex work and human trafficking cases beyond the sex industry;
5. Do not instrumentalise trafficked persons at judicial, political or organisational level in order to serve own agendas;
6. Offer realistic support and viable alternatives to sex workers who want to leave the industry.

**To donor organisations:**

1. Support organising among sex workers as a means to defend and promote their human rights;
2. Conduct regular and rigorous evaluation of funded anti-trafficking initiatives in order to ensure that these do not negatively impact the rights and wellbeing of sex workers.

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